THE HON'BLE DR JUSTICE G.YETHIRAJULU

Writ Petition No.28540 of 1998

27.12.2007

Between

M/s.Sacheen Industries, Bhainsa

…Petitioner

And

Agricultural Market Committee, Bhainsa, Adilabad, rep.by its Secretary/Person-in-charge, Adilabad District and others.

…Respondents

THE HON'BLE DR JUSTICE G.YETHIRAJULU

Writ Petition No.28540 of 1998

ORDER:

This writ petition is filed by the petitioners seeking to declare that the orders of the second respondent dated 07.09.1998 vide Proceedings No.884/93-94/537 and Proceedings No.884/94-95/540 are highly illegal, improper, arbitrary and violative of principles of natural justice and consequently to direct fresh enquiry and verify all the account books and records relating to the assessment year 1993-94 and 1994-95 and reassess the assessment and to pass such other orders as the Court deems fit.

The petitioner is contending that the Secretary, Agricultural Market Committee, Bhainsa, Adilabad District, passed an assessment order, against which, he preferred an appeal before the Director of Marketing, Government of Andhra Pradesh, Hyderabad, who in turn passed an order on 07.11.1996. In the said order, he observed that

detailed verification of the records is to be caused and the counsel for the petitioners has agreed to produce the evidence of payment of market fee on cotton sent through bailing units. Detailed evidence to qualify such exemptions shall have to be produced to the market committee. The market committee shall accordingly raise the demand within a period of one month from the date of receipt of the order. Till then, the petitioners may be allowed to continue their transactions duly paying the assessed market fee in the proceedings under best of judgment plus interest thereon at the rate of 12% per annum. In pursuance of the said order, the petitioner made a representation on 31.08.1998 stating that the accounts are not being verified and requested to verify the same to reassess the market fee after due enquiry and verify the books of accounts and other related documents expressing their readiness to produce the accounts and evidence for fresh assessment. After the said representation, the Market Committee passed the order, dated 07.09.1998, wherein there is no mention about the verification of the records, but it was observed that the petitioners failed to produce any evidence before the Market Committee within the time limit fixed by the Director of Marketing and produce any record of the accounts within the time limit. Therefore, the question of reassessment of the demand does not arise.

In pursuance of the direction given by the Director of Marketing, the second respondent ought to have given an opportunity by serving a notice on the petitioners to produce records and after verification, the order ought to have been passed. Though it is mentioned that the petitioners failed to produce the evidence, there is no

mention as to when they were served with notice and when the date was fixed directing them to produce the records. In the absence of such details, the order cannot be sustained. The order of the second respondent dated 07.09.1998 is therefore set aside.

In the result, the writ petition is allowed and the matter is remitted to the second respondent directing him to issue notice to the petitioners to produce relevant records by fixing a particular date and by obtaining acknowledgment regarding the date of hearing. Despite that, if the petitioners fail to produce the accounts, the second respondent is at liberty to pass appropriate orders and on the other hand, if the petitioners produce records or any evidence, the second respondent shall examine the same and pass appropriate orders after verifying the records. No costs.

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27.12.2007

VGB